

REMARKSI. Status of the Application

- Claims 104 to 120 and 126 to 144 are pending in the above-identified application, of which claims 97, 104, 111 and 116 are independent.
- Claims 104 to 108, 110 to 120, 126 to 128, 131 to 133, 137 to 140 and 142 are amended.
- Claims 97 to 103 and 121 to 125 are cancelled.
- Claims 143 and 144 are added.

Accordingly, entry of the amendments and the new claims is respectfully requested. Applicants have amended the claims to recite particular embodiments that Applicants, in their business judgment, have determined to be commercially desirable at this time. The claim amendments have not been submitted for any reasons relating to patentability, such as to overcome any of the Examiner's rejections.

Applicants intend to pursue the subject matter of the previously withdrawn and previously cancelled claims, in one or more continuing applications.

II. Summary of the Interview with the Examiner

Applicants thank the Examiner for the telephone interview on August 22, 2007 with Applicants' representatives. No agreement was reached regarding the allowance of any claims.

During the interview, the Examiner and Applicants' representatives discussed and clarified the language of the independent claims for the Examiner's understanding.

Specifically, the Examiner stated that method claim 97 fails to meet the standards of 35 U.S.C. §101 and §112, because claim 97 describes only one circumstance (i.e., when it is determined that a trader qualifies for an incentive) that transpires under a test. According to the Examiner, claim 97 also must recite the limitations that address what could transpire under *other* circumstances not related to the method (i.e., when it is determined that a trader does not qualify for an incentive). The Examiner informed Applicants' representatives that the PTO's "101 Panel" requires a method claim to recite limitations which cover all circumstances that could transpired under a test, in order to be considered statutory subject matter and definite. In other words, the "101 Panel" requires that a method claim recite all the mutually exclusive steps that would result from different applications of a test, even though a method claim that encompasses mutually exclusive steps could be non-infringeable.

Applicants' representatives also directed the Examiner's attention to claims 104, 111 and 116, which correspond, respectively, to analogous apparatus, article of manufacture and system claims. Since claims 104, 111 and 116 are not method claims, they are capable of reciting that such products are capable of performing various mutually exclusive aspects of a test.

Nonetheless, in an effort to expedite prosecution, Applicants have cancelled method claims 97 to 103 and 121 to 125. According to the record, no *prima facie* case has been made regarding the unpatentability of the claims. The Examiner is invited to contact the Applicants' undersigned attorney at (857) 413-2056 in order to expedite prosecution.

Respectfully submitted,

By: /Ruth J. Ma/

Date: August 24, 2007

Ruth J. Ma  
Reg. No. 55,414  
Cantor Fitzgerald, L.P.  
110 East 59<sup>th</sup> Street  
New York, NY 10022  
Tel. No. (857) 413-2056  
Fax. No. (857) 413-2019  
Attorney for Applicants